

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

RICKY TEJADA,	:	
	:	
Plaintiff,	:	
v.	:	No. 5:14-cv-05604
	:	
CORRECTIONAL OFFICER DALE et al.,	:	
	:	
Defendants.	:	

O R D E R

AND NOW, this 30th day of September, 2015, upon consideration of Defendants' Motions to Dismiss, ECF No. 21, for the reasons set forth in the Memorandum issued this date, **IT IS ORDERED** that the Motion is **DENIED IN PART** and **GRANTED IN PART** as follows:

1. Defendants' Motion to dismiss Count 1 of the Amended Complaint is **DENIED**.
2. Defendants' Motion to dismiss Count 2 of the Amended Complaint is **GRANTED**.
Count 2 is **DISMISSED with prejudice**.
3. Defendants' Motion to dismiss Count 3 of the Amended Complaint is **DENIED IN PART** and **GRANTED IN PART** as follows:
 - a. Defendants' Motion to dismiss Count 3 is **DENIED** as to Plaintiff's claims under Article 1 § XIII of the Pennsylvania Constitution.
 - b. Defendants' Motion to dismiss Count 3 is **GRANTED** as to Plaintiff's claims under Article 1 § IX of the Pennsylvania Constitution. Plaintiff's claims under Article 1 § IX of the Pennsylvania Constitution are **DISMISSED with prejudice**.

4. Defendants' Motion to dismiss Count 4 of the Amended Complaint is **DENIED IN PART** and **GRANTED IN PART** as follows:

- a. Defendants' Motion to dismiss Count 4 is **GRANTED** as to Plaintiff's claims under 37 Pa. Code § 95.240. Plaintiff's claims under 37 Pa. Code § 95.240 are **DISMISSED with prejudice**.
- b. Defendants' Motion to dismiss Count 4 is **DENIED** as to Plaintiff's claims under 37 Pa. Code § 95.241.

5. Defendants' Motion to dismiss Counts 5 of the Amended Complaint is **DENIED**.

6. Defendants' Motion to dismiss Count 6 of the Amended Complaint is **GRANTED**.
Count 6 is **DISMISSED with prejudice**.

7. Defendants' Motion to dismiss all claims against Defendant Sommers is **GRANTED**. All claims against Defendant Sommers are **DISMISSED with prejudice**.

8. Defendant Sommers is **TERMINATED** as a party.

9. Within twenty days of the date of this Order, Defendants shall file an answer to the Amended Complaint.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LEESON, JR.
United States District Judge